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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

KASEY HOLT,

Defendant and Appellant.

A153655

(Napa County  
Super. Ct. No. CR181094)

Following his plea of guilty to arson of an inhabited structure, possession of a destructive device, and second-degree burglary, together with his admission of a basis for imposing sentencing enhancements for the use of an accelerant when committing the arson and causing more than \$200,000 in property damage, appellant Kasey Holt was sentenced by negotiated disposition to an aggregate prison term of 12 years, eight months. The trial court granted him a certificate of appealability, and he now appeals. His appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). We have conducted the required independent review of the record and see no error in the conviction, the sentence, any of the fines and fees imposed, or any of the other terms and conditions of the sentence. Accordingly, we affirm.

**I. BACKGROUND FACTS<sup>1</sup>**

A fire broke out in the gymnasium at Napa Valley College at 1:30 a.m. on the morning of June 22, 2015. The origins of the fire were in the basketball coach's office,

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<sup>1</sup> These facts are taken from the probation officer's report dated October 18, 2017.

where someone set fire to papers on the desk of Steve Ball, the head coach. Holt, a disgruntled member of the basketball team, had had a recent dispute with Ball over his eligibility to play. The fire caused major damage to the office and the computer equipment there, and significant smoke damage throughout the entire gymnasium. Holt was seen on campus later on the day of the fire. According to the college Athletic Director, it was odd for him to be on campus that day because the school was on summer break.

Five days later, June 27, 2015, more fires were set in the condominium complex where Coach Ball lived. Someone threw “Molotov cocktail” type devices (cannisters wrapped in a rag soaked with flammable liquids) through the window of one condominium and attempted to throw another such device through the window of the neighboring condominium. Someone also poured a flammable substance onto the welcome mat of a third condominium. The smoke and fire caused considerable damage to the contents of all three condominiums.

A warrant for a search of Holt’s home and car was issued and executed. The police found a plumber’s propane torch that was identical to those used at the condominium fires. The police also claimed to smell a faint odor of gasoline on Holt’s shoes. A witness, claiming to be a friend of Holt, told police Holt had shown up at his house in the early morning hours after the condominium fire while smelling of gasoline and admitted he had set his coach’s house on fire. Holt’s girlfriend also admitted she was with him that same night and drove with him to the condominium complex; her statement was supported by her cell phone records.

## **II. CHARGED OFFENSES, PLEA, CONVICTION, AND SENTENCE**

Holt was charged by an information, filed July 17, 2017, alleging six felony counts. Count one charged attempted first-degree murder in violation of Penal Code<sup>2</sup> sections 187, subdivision (a), and 664. Count two charged arson of an inhabited structure, a violation of section 451, subdivision (b). Count three charged a violation of section

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<sup>2</sup> All subsequent undesignated statutory references are to the Penal Code.

18740, possession of a destructive device near a home, with intent to injure. Count four charged residential burglary, in violation of section 459. Count five charged arson of a structure in violation of section 451, subdivision (c). And the final count, six, charged another violation of section 459, but as a second-degree commercial burglary.

Two enhancements were alleged: the first under section 451.1, subdivision (a), alleged that the arson was caused by the use of a fire accelerant; the second under section 12022.6, subdivision (a)(2), alleged that the value of the property damaged exceeded \$200,000.

On September 8, 2017, Holt accepted a plea bargain by which he pled guilty to the felony violation of arson of an inhabited structure, section 451, subdivision (b) (count two), to possession of a destructive device, a violation of section 18740 (count three), and to second degree burglary, a violation of section 459 (count six); and, in addition, he admitted both enhancements alleged pursuant to section 451.1, subdivision (a) (the use of a fire accelerant) and section 12022.6, subdivision (a)(2) (value of the property damaged exceeded \$200,000). Counts one, four and five were dismissed with a *Harvey* waiver.<sup>3</sup> The total aggregate sentence specified in the plea bargain was twelve years, eight months in prison.

When the trial court took his plea, Holt acknowledged he had read and signed the plea form and he had discussed it with counsel and had adequate time to do so. His counsel stipulated to the factual basis for the plea. Holt personally entered a guilty plea to each of counts two, three and six and personally admitted both of the enhancements. After advising Holt that because one of the counts to which he pleaded was a serious and violent strike, thus requiring him to serve 85% of his sentence, the court found that he entered the plea knowingly, intelligently, and voluntarily.

At sentencing, the court imposed a sentence of twelve years, eight months in prison. The midterm of five years on the arson of an inhabited structure (count two) was the

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<sup>3</sup> *People v. Harvey* (1979) 25 Cal.3d 754.

primary term; the possession of a destructive device (count three) drew another four years concurrent to count two; the term for the second-degree burglary (count six) was eight months, one third of the midterm. The enhancements added another seven years to this sentence, five years for the use of an accelerant (§451.1, subd. (a)) and two years for the amount of damage exceeding \$200,000 (§12022.6, subd. (a)(2)). Restitution to the condominium resident victims of the arson charged in count two were awarded in the amounts of \$21,627.50 and \$42,921.21 for the damage to their properties; and Napa Valley College, the victim in count five, was awarded \$591,104.59 in restitution for that damage.

The sentence also included credits for time served totaling 502 days (437 actual days and 65 days conduct credit); a \$300 victim restitution fine, a \$300 parole revocation fine (suspended pending parole revocation), a \$120 court security fee, a \$90 criminal assessment fee, and a \$182 jail booking fee; conditions requiring Holt to register as an arson offender (§457.1) and submit DNA samples (§296); and a 10-year victim stayaway order.<sup>4</sup>

Holt filed a timely appeal. A request for a certificate of probable cause was requested and granted by the trial court. Holt's appellate counsel filed a *Wende* brief, advising him of his right to file a supplemental brief of his own, independently. Holt availed himself of that right, submitting to this court a handwritten letter dated October

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<sup>4</sup> During the pendency of this appeal the case was returned twice to the trial court to correct unauthorized aspects of its sentence. On the first occasion, the trial court apparently corrected the sentence on count three, which it had imposed concurrently to count two, but misstated the midterm was four years when the Penal Code specified a five-year midterm on that count. Then, on September 14, 2018, appellate counsel sought to correct the misstatement at sentencing when the trial court imposed the midterm of five years for the enhancement under section 451.1, subdivision (b); the midterm is actually four years under that enhancement. The trial court stated it meant to impose the upper term of five years pursuant to the plea bargain and adjusted the sentence accordingly. At that time the court also clarified that the sentence on count three was a sentence of three years (the low term), which ran concurrently to count two.

12, 2018. His letter attaches an earlier letter to him from his appellate counsel, dated August 30, 2018, and a transcript of a September 14, 2018 hearing on the motion to correct the abstract of judgment filed by his appellate counsel. (See fn. 4, *ante*.)

### **III. CONCLUSION AND DISPOSITION**

Having conducted the required independent review of the record under *Wende*, *supra*, 25 Cal.3d 436 and having reviewed Holt's submission to us with its attachments, we see no arguable issues that merit briefing, no infirmities in the record on which the plea is based, and no errors in the amounts or the legal basis for any of the fees or fines. The conviction and sentence, including the fees, fines and restitution orders, are affirmed.

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STREETER, J.

WE CONCUR:

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POLLAK, P. J.

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BROWN, J.